

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
LAURA LITINSKY	:	
	:	
Plaintiff,	:	
	:	Docket No.: 07-cv-11475 (RJS)
against	:	(GWG) [ECF Case]
	:	
DIAMANTE THE DIAMOND	:	
MANUFACTURERS, INC., RAFAEL	:	
ZAKARIA, AND THE GEMOLOGICAL	:	
INSTITUTE OF AMERICA	:	
	:	
Defendants.		
-----	X	

**SUPPLEMENTAL DECLARATION OF JOSHUA RUTHIZER IN SUPPORT OF
PLAINTIFF LAURA LITINSKY'S ORDER TO SHOW CAUSE REQUESTING
A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION**

Joshua Ruthizer hereby declares as follows under penalty of perjury:

1. I am an associate with the law firm of Proskauer Rose LLP, 1585 Broadway, New York, New York and counsel to the Plaintiff Laura Litinsky in this action.
2. I make this declaration in support of Mrs. Litinsky's order to show cause for a temporary restraining order and preliminary injunction, pursuant to Fed. R. Civ. P. 64 and 65 and N.Y. C.P.L.R. § 7109(a), to preserve the status quo pending trial on the merits of Mrs. Litinsky's underlying causes of action. Mrs. Litinsky asks that the Court preliminarily restrain and enjoin Defendant the Gemological Institute of America ("GIA") its servants, employees, agents, representatives, and all persons acting in concert with them, from transferring the 5.02 Cara Oval Brilliant Diamond subject of GIA Report 12011455 and GIA Report 16434784 (the "Diamond") to Defendants Diamante The Diamond Manufacturers, Inc. ("Diamante") and Rafael Zakaria ("Zakaria"), the President of Diamante, or from removing, transferring, dismantling, selling,

pledging or otherwise disposing of the Diamond or permitting the Diamond to become subject to a security interest or lien.

3. The purpose of this declaration is to put before the court facts and relevant documents concerning service of the Order to Show Cause in this action entered by Judge Richard J. Sullivan on December 21, 2007 (the "Order"), its supporting papers and the Summons(es) and Verified Complaint upon all Defendants on December 21, 2007 and additional service on December 24, 2007. A copy of the Order is attached to this declaration as Exhibit A.

I. December 21, 2007 Service

4. On December 21, 2007, I caused to be served by UPS Next Day Air Saturday Delivery and facsimile the Order, the Declaration of Laura Litinsky with attached Exhibits, the Declaration of Joshua Ruthizer with attached Exhibits, the Declaration of Gary Kovacs, the Memorandum of Law, the Summons(es) and Verified Complaint with attached Exhibits, the Individual Rules for Judge Sullivan and Magistrate Judge Gabriel W. Gorenstein, the 3rd Amended Instructions for Filing an Electronic Case or Appeal, the Guidelines for Electronic Case Filing, the Procedures for Electronic Case Filing, and a cover letter dated December 21, 2007 (collectively "Documents") upon all Defendants. A copy of my certificate of service is attached to this declaration as Exhibit B.

5. I also caused the Documents to be served upon GIA and Reuben Yeroushalmi, purported counsel to Zakaria and Diamante¹, via email.

6. My December 21, 2007 cover letter stated that there was a hearing on Mrs. Litinsky's request for a preliminary injunction scheduled for December 26, 2007 at 11:00 A.M. I asked the Defendants to contact me or Judge Sullivan's chambers immediately if they were

¹ As stated in my December 21, 2007 Declaration and Gary Kovac's December 20, 2007 Declaration, Mr. Yeroushalmi has neither confirmed nor denied that he represents Zakaria and Diamante in this matter.

unable to attend the hearing. A copy of my December 21, 2007 letter is attached to this declaration as Exhibit C.

A. UPS Next Day Air Saturday Delivery

7. On December 21, 2007, I caused the Documents to be served upon all Defendants by UPS Next Day Air Saturday Delivery. A copy of excerpts of the December 21, 2007 UPS Daily Shipment Report for Proskauer Rose LLP is attached to this declaration as Exhibit D.

8. I sent the Documents via UPS to Diamante and Zakaria at 550 South Hill Street, #1260, Los Angeles, California, 90013 (Ex. D, p. 11), Diamante's business address listed with the California Secretary of State. A copy of a Diamante's information from the California Secretary of State's website is attached to this declaration as Exhibit E.

9. UPS was not able to deliver the Documents to Diamante and Zakaria on Saturday December 22, 2007 because no one was at the address to sign for the package. UPS reported that Diamante was on a "holiday". UPS made a second attempt and delivered the Documents on December 24, 2007. A copy of the UPS website tracking information for the Documents sent to Diamante and Zakaria is attached to this declaration as Exhibit F.

10. I also sent the Documents via UPS to Reuben Yeroushalmi, Esq. of Yeroushalmi & Associates at Wilshire Park Place, 3700 Wilshire Blvd, Suite 480, Los Angeles, California, 90010 (Ex. D, p. 10), the address listed on the Yeroushalmi & Associates website. A copy of the contact information page from the Yeroushalmi & Associates website is attached to this declaration as Exhibit G.

11. UPS was not able to deliver the Documents to Yeroushalmi & Associates on Saturday December 22, 2007 because no one was at the address to sign for the package. UPS made a second attempt and delivered the Documents on December 24, 2007. A copy of UPS

website the tracking information for the Documents sent to Yeroushalmi & Associates is attached to this declaration as Exhibit H.

12. I sent the Documents via UPS to Todd Marcus of DLA Piper US LLP, counsel to GIA, at 1251 Avenue of the Americas, New York, New York, 10020 (Ex. D, p. 11), the address listed on DLA Piper US LLP's website. A copy of Mr. Marcus's profile page from the DLA Piper US LLP website is attached to this declaration as Exhibit I.

13. DLA Piper US LLP received the Documents via UPS on Saturday December 22, 2007. A copy of the UPS website tracking information for the Documents sent to Mr. Marcus is attached to this declaration as Exhibit J.

B. Facsimile Service

14. On December 21, 2007, I asked the facsimile department of Proskauer Rose to send the Documents to Mr. Marcus, Mr. Zakaria and Mr. Yeroushalmi via facsimile.

15. On December 21, 2007, the facsimile department sent the Documents to Mr. Yeroushalmi at (213) 382-3430, the facsimile number listed on his law firm's website (Ex. G). The Documents were sent to Mr. Yeroushalmi in three facsimiles. Copies of the confirmation pages for the three facsimiles received by Yeroushalmi & Associates are attached to this declaration as Exhibit K.

16. On December 21, 2007, the facsimile department sent the Documents to Mr. Marcus at (212) 884-8489, the facsimile number listed on DLA Piper US LLP's website (Ex. J). A copy of the confirmation page for the facsimile received by Mr. Marcus is attached to this declaration as Exhibit L.

17. On December 21, 2007, the facsimile department attempted to send the Documents to Zakaria and Diamante at (213) 622-3600. As stated in my December 21, 2007

Declaration, this facsimile number was provided to me by Diamante on December 20, 2007.

18. The facsimile department attempted to send the Documents to Zakaria and Diamante in three sections. The facsimile department completed transmission of sections one and two, or 71 of 133 pages, however was unable to complete transmission of section three. Sections one and two of the Documents included the cover letter, the Order, the Summonses to Zakaria and Diamante, the Verified Complaint with attached Exhibits, the Declaration of Laura Litinsky with attached Exhibits, the Declaration of Joshua Ruthizer with attached Exhibits, and pages 1 and 2 of the Declaration of Gary Kovacs. A copy of the confirmation pages for the two facsimile transmissions received by Diamante and Zakaria are attached to this declaration as Exhibit M.

19. When the facsimile department attempted to transmit the third section of the Documents, the fax machine at Diamante's offices would not pick up the telephone line. The third section of the Documents included the remainder of the Kovacs Declaration, the Memorandum of Law, Individual Rules for Judge Sullivan and Magistrate Judge Gorenstein, the 3rd Amended Instructions for Filing an Electronic Case or Appeal, the Guidelines for Electronic Case Filing and the Procedures for Electronic Case Filing.

20. The facsimile department believes that the reason they were unable to complete transmission of the third section of Documents is that the power on Diamante's facsimile machine was off or the facsimile machine was out of paper.

21. On the morning of December 22, 2007, the facsimile department telephoned Diamante's offices at (213) 622-0055 in an attempt to have this problem fixed and so that they could complete the transmission of the third section of the Documents. The facsimile department reached an answering machine and left a message.

22. On December 22, 2007, I instructed the facsimile department to continue their attempts to send section three of the facsimile to Zakaria and Diamante.

C. Email Service

23. On December 21, 2007, I sent the Documents to Mr. Yeroushalmi via email at lawfirm@yeroushalmi.com, the email address listed on his law firm's website (Ex. G). A copy of my email to Mr. Yeroushalmi, without attachments, is attached to this declaration as Exhibit N.

24. On December 21, 2007, I emailed Mr. Marcus at todd.marcus@dlapiper.com, the email address on DLA Piper US LLP's website (Ex. J), to update him on the status of Mrs. Litinsky's request for an injunction. A copy of my email to Mr. Marcus is attached to this declaration as Exhibit O.

25. On December 21, 2007, I sent the Documents to Mr. Marcus via email. A copy of my email to Mr. Marcus, without attachments, is attached to this declaration as Exhibit P.

26. On December 21, 2007, Mr. Marcus emailed me to confirm his receipt of the Documents. A copy of Mr. Marcus's email to me is attached to this declaration as Exhibit Q.

Additional Efforts

27. On December 22, 2007, I telephoned Mr. Yeroushalmi at (213) 382-3183, the telephone number listed on his law firm's website (Ex. G) and left a message with Jerry of his law firm's message center with my name, business telephone number and email address. My message stated: (1) I was the attorney representing Mrs. Litinsky in a lawsuit filed against Zakaria, Diamante and GIA; (2) I had sent the Documents to him via facsimile, email and UPS Next Day Air to the contact information listed on his website; and (3) there was a hearing regarding Mrs. Litinsky's request for a preliminary injunction scheduled for 11:00 A.M. on

December 26, 2007 in the Southern District of New York. I asked that Mr. Yeroushalmi call me regarding the case and inform me if he represented Zakaria and Diamante, knew of other counsel who represented them, or if they were represented by counsel at all.

28. On December 24, 2007, Diamante was personally served with the Documents. The Documents were served upon an individual authorized to accept service of process at Diamante's business address. A copy of the Affidavit of Service for personal service upon Diamante is attached to this declaration as Exhibit R.

29. On December 24, 2007, Yeroushalmi & Associates was personally served with the Documents. The Documents were served upon an individual authorized to accept service of process at Yeroushalmi & Associates' business address. A copy of the Affidavit of Service for personal service upon Yeroushalmi & Associates is attached to this declaration as Exhibit S.

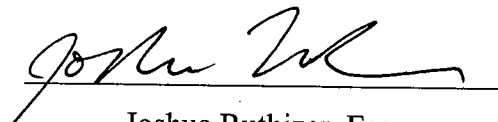
30. On December 24, 2007, Reuben Zakaria was served with the Documents. The Documents were served upon an individual at Diamante's business address who was over the age of 18 and authorized to accept service of process on behalf of Diamante. Copies of the Documents were also mailed to Zakaria at Diamante's business address. A copy of the Affidavits of Service for service upon Zakaria are attached to this declaration as Exhibit T.

31. After personal service of the Documents was completed upon Zakaria and Diamante, I instructed the Proskauer Rose facsimile department to stop its attempts to complete the facsimile sent to Zakaria and Diamante on December 21, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York

December 26, 2007


Joshua Ruthizer, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURA LITINSKY,

Plaintiff,

against

DIAMANTE THE DIAMOND
MANUFACTURERS, INC., RAFAEL
ZAKARIA, AND THE GEMOLOGICAL
INSTITUTE OF AMERICA,

Defendants.

07 CV 11475

Docket No.:

Judge:

ORDER TO SHOW CAUSE

X

UPON READING AND FILING of the accompanying Declaration of Laura Litinsky, sworn to December 20, 2007, the Declaration of Joshua Ruthizer, sworn to December 21, 2007, the Declaration of Gary Kovacs, sworn to December 20, 2007, the Verified Complaint in this action, the accompanying Memorandum of Law, dated December 21, 2007, together with the exhibits attached to afore mentioned documents, and upon all of the papers, pleadings and oral argument heretofore had herein,

LET DEFENDANTS HEREIN SHOW CAUSE, before Judge

Richard Sullivan, Room 21C, at the United States Courthouse located at 500 Pearl Street, New York, NY, on the 26th day of December, 2007 at 11:00 am

thereafter as counsel may be heard, why an Order should not be made and entered:

- (a) Preliminarily restraining and enjoining, pursuant Fed. R. Civ. P. 64 and 65(a) and N.Y. C.P.L.R. § 7109(a), Defendant Gemological Institute of America ("GIA"), its servants, employees, agents, representatives, and all persons acting in concert with them, from transferring the 5.02 carat oval cut brilliant F-VVS2 diamond subject of GIA

Certificate 12011455 and GIA Certificate 16434784 (the "Diamond") to Defendants
Diamante The Diamond Manufacturers, Inc. ("Diamante") and Rafael Zakaria
("Zakaria") or from removing, transferring, dismantling, selling, pledging or otherwise
disposing of the Diamond or permitting the Diamond to become subject to a security
interest or lien; and

(b) for such other and further relief as this Court may deem just, proper and necessary
under the circumstances.

SUFFICIENT CAUSE BEING ALLEGED THEREFORE, IT IS HEREBY:

ORDERED that pending the hearing and determination of this application, Defendant
GIA, its servants, employees, agents, representatives, and all persons acting in concert with
them, are restrained and enjoined, pursuant to Fed. R. Civ. P. 65(b) and N.Y. C.P.L.R. § 7109(a)
from transferring the Diamond to Diamante and Zakaria or from removing, transferring,
dismantling, selling, pledging or otherwise disposing of the Diamond or permitting the Diamond
to become subject to a security interest or lien; *ORDERED THAT SECURITY*

IN THE AMT OF \$100,000 BE POSTED BY 1007
IT IS FURTHER ORDERED that personal service of this Order to Show Cause, and
the papers upon which it is based, as well as the Summons and Verified Complaint, upon
Defendant Rafael Zakaria, 550 South Hill Street # 1260, Los Angeles, California, 90013, on or
before the ___ day of December, 2007 shall be deemed good and sufficient service;

IT IS FURTHER ORDERED that ~~personal~~ service of this Order to Show Cause, and
the papers upon which it is based, as well as the Summons and Verified Complaint, upon *all*
today (December 21, 2007).
~~Defendant Diamante, 550 South Hill Street # 1260, Los Angeles, California, 90013, or upon~~
~~Rafael Zakaria, President of Diamante, 550 South Hill Street # 1260, Los Angeles, California,~~

~~00012, in his capacity as~~ ~~officer of Defendant Diamanta, or upon Harold I. Gould, A~~
~~Professional Corporation, 4200 Promenade Way, #922D, Marina Del Rey, California, 90292, as~~
~~authorized agent for service of process for Defendant Diamanta, on or before the~~ ~~day of~~
~~December, 2007 shall be deemed good and sufficient service;~~

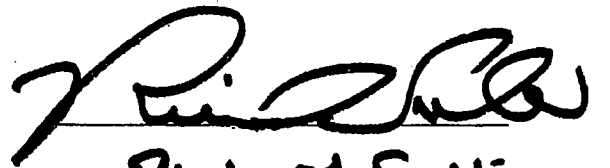
~~IT IS FURTHER ORDERED that personal service of this Order to Show Cause, and~~
~~the papers upon which it is based, as well as the Summons and Verified Complaint, upon Todd~~
~~Marcus of DLA Piper US LLP, 1251 Avenue of the Americas, New York, New York, 10020,~~
~~counsel for Defendant GIA, on or before the~~ ~~day of December, 2007 shall be deemed good~~
~~and sufficient service;~~


~~IT IS FURTHER ORDERED that opposing papers, if any, are to be served upon~~
~~Plaintiff's attorney Joshua Rudizer of Proskauer Rose LLP, 1585 Broadway, New York, New~~
~~York, 10036, so as to be received by 12:00 noon on the~~ ~~day of January, 2007;~~

~~AND IT IS FURTHER ORDERED that reply papers, if any, shall be served upon~~
~~Defendant's counsel, so as to be received not later than~~ ~~p.m. on January~~ ~~2007~~

1350ED: DEC. 21, 2007
D.D.N.Y.C, N.Y. 3:12 pm

ENTER:


Hon. Richard Sullivan
United States District Court
Southern District of New York



CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2007, pursuant to the Order to Show Cause entered by Judge Richard J. Sullivan on December 21, 2007 in *Litinsky v. Diamante The Diamond Manufacturers, Inc., Rafael Zakaria and the Gemological Institute of America*, 07-CV-11475 (S.D.N.Y.) (RJS) (GWG) (ECF Case) (the "Action"), I caused to be served, by UPS Next Day Air Mail Saturday Delivery and Facsimile the following documents in the Action:

1. **ORDER TO SHOW CAUSE ENTERED BY JUDGE SULLIVAN ON DECEMBER 21, 2007;**
2. **SUMMONS;**
3. **VERIFIED COMPLAINT;**
4. **DECLARATION OF LAURA LITINSKY IN SUPPORT OF HER ORDER TO SHOW CAUSE REQUESTING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO PRESERVE THE STATUS QUO;**
5. **DECLARATION OF JOSHUA RUTHIZER IN SUPPORT OF PLAINTIFF LAURA LITINSKY'S ORDER TO SHOW CAUSE REQUESTING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION;**
6. **DECLARATION OF GARY KOVACS IN SUPPORT OF PLAINTIFF LAURA LITINSKY'S ORDER TO SHOW CAUSE REQUESTING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION;**
7. **MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF LAURA LITINSKY'S ORDER TO SHOW CAUSE REQUESTING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO PRESERVE THE STATUS QUO;**
8. **INDIVIDUAL PRACTICES OF JUDGE RICHARD J. SULLIVAN;**
9. **3RD AMENDED INSTRUCTIONS FOR FILING AN ELECTRONIC CASE OR APPEAL;**
10. **GUIDELINES FOR ELECTRONIC CASE FILING;**
11. **PROCEDURES FOR ELECTRONIC CASE FILING; AND**
12. **INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE GABRIEL W. GORENSTEIN;**

upon:

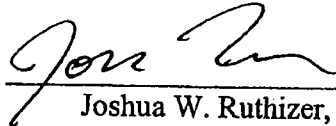
Rafael Zakaria and Diamante The Diamond Manufacturers Inc.
550 South Hill Street # 1260
Los Angeles, CA 90013
Fax: 213-622-3600
Defendants

Reuben Yeroushalmi
Yeroushalmi & Associates
Wilshire Park Place
3700 Wilshire Boulevard, Suite 480
Los Angeles, CA 90010
Fax: 213-382-3430
Email: lawfirm@yeroushalmi.com
Purported Counsel to Defendants Rafael Zakaria and Diamante The Diamond Manufacturers Inc.

Todd B. Marcus
DLA Piper US LLP
1251 Avenue of the Americas
New York, New York 10020-1104
Fax: 212-884-8489
Email: todd.marcus@dlapiper.com
Counsel to Defendant Gemological Institute of America

I hereby also certify that on December 21, 2007, pursuant to the Order to Show Cause entered by Judge Sullivan, I also caused the above documents to be served by electronic mail upon Todd Marcus and Reuben Yeroushalmi at the electronic mail addresses listed above.

Dated: New York, New York
December 21, 2007


Joshua W. Ruthizer, Esq.

PROSKAUER ROSE LLP

1585 Broadway
New York, NY 10036-8299
Telephone 212.969.3000
Fax 212.969.2900

BOCA RATON
BOSTON
LONDON
LOS ANGELES
NEW ORLEANS
NEWARK
PARIS
SAO PAULO
WASHINGTON

Joshua W. Ruthizer
Attorney at Law

Direct Dial 212.969.3869
jruthizer@proskauer.com

December 21, 2007

Via Facsimile, UPS Next Day Air and Email (Mr. Yeroushalmi and Mr. Marcus only)

Rafael Zakaria and Diamante The Diamond Manufacturers Inc.
550 South Hill Street # 1260
Los Angeles, CA 90013
Fax: 213-622-3600

Reuben Yeroushalmi
Yeroushalmi & Associates
Wilshire Park Place
3700 Wilshire Boulevard, Suite 480
Los Angeles, CA 90010
Fax: 213-382-3430
Email: lawfirm@yeroushalmi.com

Todd B. Marcus
DLA Piper US LLP
1251 Avenue of the Americas
New York, New York 10020-1104
Fax: 212-884-8489
Email: todd.marcus@dlapiper.com

Re: Litinsky v. Diamante The Diamond Manufacturers, Inc., Rafael Zakaria and the
Gemological Institute of America, 07-CV-11475 (S.D.N.Y.) (RJS) (GWG) (ECF Case)

Dear Mr. Zakaria, Mr. Yeroushalmi and Mr. Marcus:

Pursuant to the Order to Show Cause entered by Judge Richard J. Sullivan in the above titled action on December 21, 2007, enclosed please find the following documents which were filed in the above titled action on December 21, 2007 in the Southern District of New York:

1. Order To Show Cause entered by Judge Sullivan;
2. Summons;

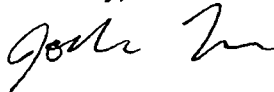
PROSKAUER ROSE LLP

Rafael Zakaria
Reuben Yeroushalmi
Todd B. Marcus
December 21, 2007
Page 2

3. Verified Complaint;
4. Declaration of Laura Litinsky in Support of Her Order to Show Cause Requesting a Temporary Restraining Order and a Preliminary Injunction to Preserve the Status Quo;
5. Declaration of Joshua Ruthizer in Support of Plaintiff Laura Litinsky's Order to Show Cause Requesting a Temporary Restraining Order and a Preliminary Injunction;
6. Declaration of Gary Kovacs in Support of Plaintiff Laura Litinsky's Order to Show Cause Requesting a Temporary Restraining Order and a Preliminary Injunction;
7. Memorandum of Law in Support of Plaintiff Laura Litinsky's Order to Show Cause Requesting a Temporary Restraining Order and a Preliminary Injunction to Preserve the Status Quo;
8. Individual Practices of Judge Richard J. Sullivan;
9. 3rd Amended Instructions for Filing an Electronic Case or Appeal;
10. Guidelines for Electronic Case Filing;
11. Procedures for Electronic Case Filing; and
12. Individual Practices of Magistrate Judge Gabriel W. Gorenstein;

Please take note the Order to Show Cause sets a hearing on Wednesday December 26, 2007 at 11:00 A.M. regarding Plaintiff Laura Litinsky's request for a Preliminary Injunction. Please contact me or the Judge Sullivan's chambers immediately if you are unable to attend the hearing.

Sincerely,



Joshua W. Ruthizer

Enclosures

cc: Gary W. Kovacs

UPS Account No.: 151542
Sorted By: Order of Shipment

Name / Address	Shipment Detail	Options	Published Rate Charges
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Shipment Service Charge:	42.17
Saturday Delivery:	14.56

Package Service Charge:	42.17
UPS Total Charge:	56.73

PROSKAUER ROSE LLP - 27TH FLOOR

DAILY SHIPMENT DETAIL REPORT

21-Dec-2007 - 9:33:52 PM

Pickup Date: 21-Dec-2007

Pickup Record No.: 2434 8433 86

UPS Account No.: 151542
Sorted By: Order of Shipment

All charges are in USD; fuel surcharge included where applicable.

Name / Address	Shipment Detail	Options	Published Rate Charges
Ship To: DIAMANTE DIAMOND MANUFACTURERS INC RAFAEL ZAKARIA PRESIDENT #1260 550 SOUTH HILL STREET LOS ANGELES CA 90013 United States	Service Type: NEXT DAY AIR Total Packages: 1 Billable Wt.: 1.0 lb Transportation: Shipper Package Ref No.1: 99999-503 Package Ref No.2: DG	Shipment Service Charge: Saturday Delivery:	37.98 14.56
Ship From: SHIPPING DEPT PROSKAUER ROSE LLP 27TH FLOOR SHIPPING 1585 BROADWAY NEW YORK NY 10036	Tracking No.: 1Z1515424455883337 Package Type: Package Weight: 1.0 lb Package Ref No.1: 99999-503 Package Ref No.2: DG	Package Service Charge: UPS Total Charge:	37.98 52.54
Ship To: TODD B. MARCUS DLA PIPER US LLP 1251 AVENUE OF THE AMERICAS NEW YORK NY 10020-1104 United States	Service Type: NEXT DAY AIR Total Packages: 1 Billable Wt.: 2.0 lb Transportation: Shipper Package Ref No.1: 99999-503 Package Ref No.2: DG	Shipment Service Charge: Saturday Delivery:	20.27 14.56
Ship From: SHIPPING DEPT PROSKAUER ROSE LLP 27TH FLOOR SHIPPING 1585 BROADWAY NEW YORK NY 10036	Tracking No.: 1Z1515424456899140 Package Type: UPS PAK Weight: 1.0 lb Package Ref No.1: 99999-503 Package Ref No.2: DG	Package Service Charge: UPS Total Charge:	20.27 34.83

California Business Portal

Secretary of State DEBRA BOWEN

DISCLAIMER: The information displayed here is current as of DEC 14, 2007 and is updated weekly. It is not a complete or certified record of the Corporation.

Corporation		
DIAMANTE THE DIAMOND MANUFACTURERS, INC.		
Number: C2142667	Date Filed: 7/8/1999	Status: active
Jurisdiction: California		
Address		
550 S HILL STREET STE 1260		
LOS ANGELES, CA 90013		
Agent for Service of Process		
HAROLD I. GOULD , A PROFESSIONAL CORPORATION		
4300 PROMENADE WAY #223P		
MARINA DEL REY, CA 90292		

Blank fields indicate the information is not contained in the computer file.

If the status of the corporation is "Surrender", the agent for service of process is automatically revoked. Please refer to California Corporations Code Section 2114 for information relating to service upon corporations that have surrendered.



Close Window

Tracking Detail

Your package has been delivered.


Tracking Number: 1Z 151 542 44 5588 333 7
 Type: Package
 Status: **Delivered**
 Delivered On: 12/24/2007 9:47 A.M.
 Signed By: R SAEZ
 Location: OFFICE
 Delivered To: LOS ANGELES, CA, US
 Shipped/Billed On: 12/21/2007
 Service: NEXT DAY AIR
 Weight: 1.00 Lb

Package Progress

Location	Date	Local Time	Description
LOS ANGELES, CA, US	12/24/2007	9:47 A.M.	DELIVERY
	12/24/2007	4:28 A.M.	OUT FOR DELIVERY
LOS ANGELES, CA, US	12/22/2007	2:19 P.M.	THE RECEIVER IS ON A HOLIDAY. DELIVERY WILL BE ATTEMPTED WHEN THE RECEIVER RETURNS
	12/22/2007	8:46 A.M.	OUT FOR DELIVERY
ONTARIO, CA, US	12/22/2007	7:22 A.M.	DEPARTURE SCAN
	12/22/2007	6:27 A.M.	ARRIVAL SCAN
LOUISVILLE, KY, US	12/22/2007	5:12 A.M.	DEPARTURE SCAN
	12/22/2007	1:41 A.M.	ARRIVAL SCAN
NEWARK, NJ, US	12/21/2007	10:58 P.M.	DEPARTURE SCAN
	12/21/2007	10:33 P.M.	ARRIVAL SCAN
NEW YORK, NY, US	12/21/2007	9:49 P.M.	DEPARTURE SCAN
	12/21/2007	9:25 P.M.	ORIGIN SCAN
	12/21/2007	7:18 P.M.	PICKUP SCAN
US	12/21/2007	9:04 P.M.	BILLING INFORMATION RECEIVED

Tracking results provided by UPS: 12/25/2007 12:04 P.M. ET

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to UPS for delivery and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

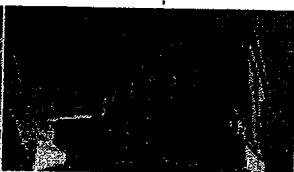
 [Close Window](#)

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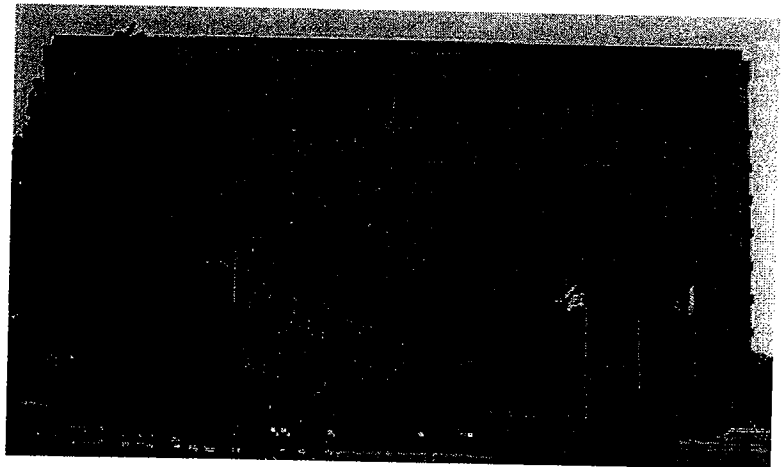
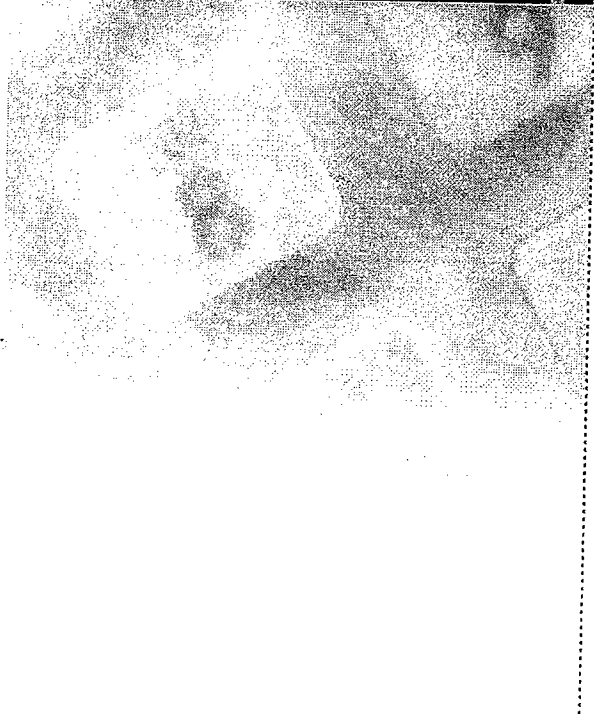


Yeroushalmi & Associates

Attorneys at Law

[Practice Areas](#)[Attorneys](#)[Media](#)[Contact](#)

Contact



Wilshire Park Place

3700 Wilshire Boulevard

Suite 480

Los Angeles, California 90010

p 213.382.3183

f 213.382.3430

lawfirm@yeroushalmi.com

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Tracking Detail

Your package has been delivered.

Tracking Number: 1Z 151 542 44 5591 872 8
Type: Package
Status: **Delivered**
Delivered On: 12/24/2007 10:14 A.M.
Signed By: KIM
Location: RECEPTION
Delivered To: LOS ANGELES, CA, US
Shipped/Billed On: 12/21/2007
Service: NEXT DAY AIR
Weight: 1.00 Lb

Package Progress

Location	Date	Local Time	Description
LOS ANGELES, CA, US	12/24/2007	10:14 A.M.	DELIVERY
	12/24/2007	2:35 A.M.	OUT FOR DELIVERY
LOS ANGELES, CA, US	12/22/2007	12:03 P.M.	THE RECEIVER WAS UNAVAILABLE TO SIGN ON THE 1ST DELIVERY ATTEMPT. A 2ND DELIVERY ATTEMPT WILL BE MADE
	12/22/2007	8:44 A.M.	OUT FOR DELIVERY
ONTARIO, CA, US	12/22/2007	7:22 A.M.	DEPARTURE SCAN
	12/22/2007	6:27 A.M.	ARRIVAL SCAN
LOUISVILLE, KY, US	12/22/2007	5:12 A.M.	DEPARTURE SCAN
	12/22/2007	1:41 A.M.	ARRIVAL SCAN
NEWARK, NJ, US	12/21/2007	10:58 P.M.	DEPARTURE SCAN
	12/21/2007	10:33 P.M.	ARRIVAL SCAN
NEW YORK, NY, US	12/21/2007	9:49 P.M.	DEPARTURE SCAN
	12/21/2007	9:33 P.M.	ORIGIN SCAN
	12/21/2007	7:18 P.M.	PICKUP SCAN
US	12/21/2007	9:04 P.M.	BILLING INFORMATION RECEIVED

Tracking results provided by UPS: 12/25/2007 12:03 P.M. ET

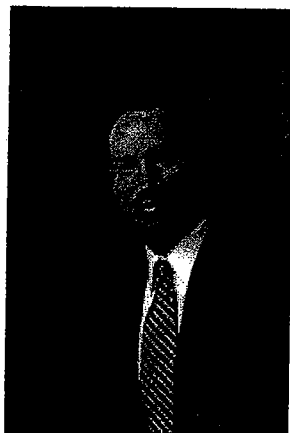
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Todd B. Marcus
Partner

todd.marcus@dlapiper.com

1251 Avenue of the Americas
New York, New York 10020-1104
United States

T: (212) 335-4889
F: (212) 884-8489

Todd Marcus is a commercial litigator concentrating in complex commercial matters, real estate litigation, and finance-related litigation (including mortgage foreclosures, workouts and restructures). He represents a number of financial and banking institutions, title insurance companies, real estate developers, real estate brokerage firms, and public and private companies on a variety of commercial matters. Mr. Marcus appears regularly before the federal and state courts located in New York. He also has represented broker-dealers in arbitrations before the New York Stock Exchange and the National Association of Securities Dealers, Inc.

Some of his more significant matters include:

- > Currently representing prominent real estate developer in defense of \$115,000,000 fraud claim involving sale of ground lease for major Manhattan office building. *TAG 380 LLC v. Howard P. Ronson, et al.*, (New York County Index No. 101396/04)
- > Successful representation of mortgagee in foreclosure of \$65,000,000 first mortgage on Empire Hotel in New York City. *EPC II LLC v. Empire Holdings LLC, et al.*, (New York County Index No. 116609/03).
- > Successful representation of major financial institution in real estate litigation involving construction and interpretation of long-term lease for world headquarters. *WFP Tower A Co., LP v. Lehman Brothers Inc.* (New York County Index No. 02-603298)
- > Secured unanimous reversal of mortgagee's motion for summary judgment in face of allegations that institution participated in large-scale fraudulent scheme. *M&T Mortgage Corporation v. Alpha & Omega, Inc.*, 309 A.D.2d 905, 766 N.Y.S.2d 370 (2d Dep't 2003)
- > Successful representation of financial institution in connection with hundreds of mortgage foreclosure actions in which borrowers alleged institution participated in scheme to defraud.

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- > Litigation and Arbitration

RELATED SERVICES

- > Litigation

- Secured dismissal with prejudice of RICO claims filed against financial institution in connection with its acquisition of multi-million dollar HUD-insured mortgage loan portfolio. *St. Stephens Community Development Corp. v. Hon. Mel Martinez, et al.*, (Civil Action No. 01 Civ. 5152 (AKH)).
- Successful defense of financial institution in class action lawsuit claiming fraud in connection with institution's acquisition of multi-million dollar mortgage portfolio. *Cowan v. Community Homebank, Inc.* (Circuit Court of Jefferson County Alabama)
- Secured unanimous reversal and dismissal of action against title insurance company for indemnification. *Brucha Mortgage Bankers Corp. v. Nations Title Insurance of N.Y., Inc.*, 275 A.D.2d 337, 712 N.Y.S.2d 151 (2d Dep't 2000)
- Successful defense of investment fund in RICO action commenced by investor. *Burton v. KenCrest Services, Inc.*, Case No. 00-CV-3205 (E.D. Pa. 2000)
- Successful representation of real estate brokerage firms in commission dispute involving upscale retail space. *Harper-Lawrence, Inc. and New Spectrum Realty Services, Inc. v. Intershoe, Inc. and Garrick-Aug Associates Store Leasing, Inc.*, 270 A.D.2d 8, 703 N.Y.S.2d 473 (1st Dep't 2000)
- Successful defense of investment bank in claim for compensation under employment agreement. *Richied v. D.H. Blair & Co., Inc.*, 272 A.D.2d 170, 710 N.Y.S.2d 25 (1st Dep't 2000)
- Successful defense of broker-dealer and its officers and directors in shareholder class action lawsuit. *Kilik v. Children's Wonderland, Inc., Royce Investment Group, et al.*, Case No. 97-7756 JGD (C.D. Cal. 1999)
- Successful appeal of title insurance company on novel issue involving monetary limitations of insurance coverage. *Brucha Mortgage Bankers Corp. v. Nations Title Insurance of New York*, 275 A.D.2d 337, 712 N.Y.S.2d 151 (2d Dep't 2000)
- Successful representation of insured mortgagee in appeal of strict foreclosure judgment. *50 East 78 L.P. v. Paneth*, 247 A.D.2d 222, 668 N.Y.S.2d 358 (1st Dep't 1998)
- Successful defense of public company in lawsuit for brokerage commission arising from purchase of corporate headquarters. *American Corporate Real Estate, Inc. v. Lifetime Hoan Corporation*, 233 A.D.2d 413, 650 N.Y.S.2d 271 (2d Dep't 1996)
- Successful representation of major financial institutions in secured and unsecured financing matters including litigations, restructurings, and workouts.

Admissions

- New York
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York

EDUCATION

- J.D., George Washington University 1989

> B.S.E.E., Lafayette College 1986



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Tracking Summary

Tracking Numbers

Tracking Number: 1Z 151 542 44 5689 914 0
Type: Package
Status: **Delivered**
Delivered On: 12/22/2007
1:33 P.M.
Delivered To: NEW YORK, NY, US
Signed By: VILLEGAS
Service: NEXT DAY AIR

Tracking results provided by UPS: 12/22/2007 2:59 P.M. ET

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JOB #427

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001	12/21	22:39	12133823430	EC--S	11' 37"	044 OK L1

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New York, NY 10036-8293
Telephone 212.969.3000
Fax 212.969.2900

BOCA RATON
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SAO PAULO
WASHINGTON

Date December 21, 2007 Client-Matter 99999-503

Total Pages (including Cover)

From Joshua W. Ruthizer

Sender's Voice Number 212.969.3869

Sender's Email Address jruthizer@proskauer.com

To: Reuben Yecoushalmi, Esq.

Company: Yecoushalmi & Associates

Message

Sender's Room Number 1654

Main Fax Number 212.969.2900

Fax No.: 213.382.3183

Voice No.: 213.382.3430

Fax Transmittal

Wrong Fax

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JOB #428

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001 12/21	22:53	12133823430	EC--S	10' 30"	042	OK L1

JOB #430

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001 12/21	23:19	12133823430	EC--S	13' 38"	042	OK L1

is actual. On or after December 27, 2007, the Diamond will be returned to Zakaria and Diamante, who have no ownership interest in the Diamond. Once in possession of the Diamond, Zakaria and Diamante can sell it or transfer it to a third party, encumber it, or even cut it up and sell it in multiple pieces. The status quo must be preserved with GIA, a neutral third party with no stake in this outcome of this action holding the Diamond.

Monetary damages also will not make Mrs. Litinsky whole because the Diamond is unique (*see* Argument Section II below). Mrs. Litinsky purchased a specific Ring with a specific Diamond, which came with a specific GIA Certificate. Money damages will not allow her to purchase an identical Diamond.

Even apart from the clear showing here of irreparable harm, a preliminary injunction independently is warranted to "maintain the status quo pending a resolution of the issues presented." *Danae Art Int'l Inc. v. Stallone*, 163 A.D.2d 81, 82, 557 N.Y.S.2d 338, 339 (1st Dep't 1990). In addition, the fact that Zakaria and Diamante are in the business of selling and purchasing diamonds should weigh in favor of an injunction. *Danae Art Int'l*, 163 A.D.2d at 82, 557 N.Y.S.2d at 339.

B. *Mrs. Litinsky will Succeed on the Merits of Her Action*

Although Mrs. Litinsky can prove that she is the rightful owner of the Diamond, to succeed on the merits of her claim to retrieve possession of the Diamond, she only need prove that she has higher ownership right to the Diamond than any other party to the action. "In an action for recovery of chattels under § 7101, the sole issue is which party has the 'superior possessory right' to the chattels." *Christie's Inc. v. Davis*, 247 F. Supp. 2d 414, 419 (S.D.N.Y. 2002). Mrs. Litinsky has superior possessory rights than any other party because the Diamond

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JOB #157

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001 12/21	7:13P	111000812128848489	EC--S	23' 06"	131	OK L1

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New York, NY 10036-8299
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Fax 212.969.2900

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WASHINGTON

Date December 21, 2007 Client-Matter 99999-503

Fax Transmittal

Total Pages (Including Cover)

From Joshua W. Ruthizer

Sender's Voice Number 212.969.3869

Sender's Room Number 1654

Sender's Email Address jruthizer@proskauer.com

Main Fax Number 212.969.2900

To: Todd B. Marcus, Esq.

Fax No.: 212.335.4889

Company: DLA Piper US LLP

Voice No.: 212.884.8489

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JOB #158

	DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001	12/21	10:46P	213 6223600	EC--S	05' 38"	023	OK L1

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New York, NY 10036-6299
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Fax 212.969.2900

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NEWARK
PARIS
SAO PAULO
WASHINGTON

Date December 21, 2007 Client-Matter 99999-503

Fax Transmittal

Total Pages (Including Cover)

From Joshua W. Ruthizer

Sender's Voice Number 212.969.3869

Sender's Room Number 1654

Sender's Email Address jruthizer@proskauer.com

Main Fax Number 212.969.2900

To: Rafael Zakaria, President

Fax No.: 213.622.0055 - 3100

Company: Diamante The Diamond Manufacturers, Inc.

Voice No.: 213.622.3600

Message

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DATE TIME
001 12/21 10:55P

TO/FROM MODE
213 6223600 EC--S

MIN/SEC
14' 33"

PGS
048

STATUS
OK L1



GEM TRADE LABORATORY

Carlsbad

6355 Avenida Del Mar | Carlsbad, CA 92008-4639

T: 760-803-4500 | F: 760-803-1814

DIAMOND GRADING REPORT

GIA REPORT 12011458

May 22, 2002

Shape and Cutting Style OVAL BRILLIANT

Measurements 12.93 x 6.58 x 5.98 mm

Weight 8.02 carat

Proportions

Depth 45.8%

Table 56.2%

Girdle SLIGHTLY THICK TO VERY THICK

Faceted NONE

Color NONE

Fluorescence NONE

Polish VERY GOOD

Symmetry GOOD

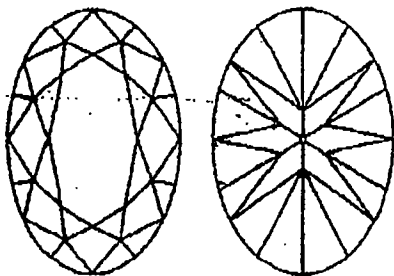
Clarity Grade VVS2

Color Grade F

Fluorescence NONE

Comments

NONE



KEY TO SYMBOLS

Feather

GIA
CLARITY
SCALE

FLAWLESS
INTERNAL FLAWLESS
VVS ₁
VVS ₂
VS ₁
VS ₂
S ₁
S ₂
I ₁
I ₂

GIA
COLOR
SCALE

D
E
F
G
H
I
J
K
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V
W
X
Y
Z

This Report is not a guarantee, replacement or appraisal. This Report contains only the characteristics of the diamond described herein after it has been graded, inspected and analyzed by GIA Gem Tools Laboratory under 10X magnification. Grading has been done using the microscope and gemological equipment. High-contrast photographs of the diamond are included.

For color comparison diamonds, standardized viewing equipment and light source, including card, balance, synthetic diamond covering device, high intensity short wave fluorescence lighting system, and wave ultraviolet transmission detection system, are required. Grading, color laser handling, the Propertiescope™, ultraviolet lamp, microscope and auxiliary instrument as necessary. For clarity, sample internal characteristics (inclusions). Black ink symbols (feathers) indicate characteristics of diamond. Diagram is an approximate representation of diamond, and symbols show indicate type, position and approximate size of clarity characteristics. Inclusions may not be shown. Grading of inclusions are not shown. The recipient of this Report is expected to consult a professional jeweler or gemologist about importance and interrelationship of cut, color, clarity and carat weight.



IMPORTANT DOCUMENT, STORE SAFELY

GIA Gem Tools Laboratory
Carlsbad, CA 92008-4639
T: 760-803-4500 | F: 760-803-1814

From: Ruthizer, Joshua W.
Sent: Friday, December 21, 2007 8:00 PM
To: Reuben Yeroushalmi (lawfirm@yeroushalmi.com)
Cc: Kovacs, Gary
Subject: Litinsky v. Diamante et al.

Attachments: Yeroushalmi Letter 12-21-07.pdf; Zakaria Summons.pdf; Complaint Ex. A.pdf; Complaint Ex. B.pdf; Complaint Ex. C.pdf; Complaint Ex. D.pdf; Complaint Ex. E.pdf; Complaint Ex. F.pdf; Complaint Ex. G.pdf; Complaint Ex. H.pdf; Complaint Ex. I.pdf; Complaint.pdf; COS.pdf; Diamante Summons.pdf; Judge's Rules and ECF Documents.PDF; Kovacs Declaration.pdf; Litinsky Decl. Ex. 1.pdf; Litinsky Decl. Ex. 2.pdf; Litinsky Decl. Ex. 3.pdf; Litinsky Decl. Ex. 4.pdf; Litinsky Decl. Ex. 5.pdf; Litinsky Decl. Ex. 6.pdf; Litinsky Decl. Ex. 7.pdf; Litinsky Declaration.pdf; Memo of Law.pdf; Ordern to Show Cause.pdf; Ruthizer Decl. Ex. 1.pdf; Ruthizer Decl. Ex. 2.pdf; Ruthizer Declaration.pdf

Please see the attached letter and documents.



Yeroushalmi Letter
12-21-07.pd...

Joshua W. Ruthizer | PROSKAUER ROSE LLP
1585 Broadway | New York, NY 10036-8299
V: 212.969.3869 | F: 212.969.2900
jruthizer@proskauer.com | www.proskauer.com



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Ruthizer, Joshua W.

From: Ruthizer, Joshua W.
Sent: Friday, December 21, 2007 7:58 PM
To: todd.marcus@dlapiper.com
Cc: Kovacs, Gary
Subject: Litinsky v. Diamante, Zakaria and GIA

Todd,

Happy Holidays. I hope you are well.

I am writing to give you an update in the Litinsky matter.

Mrs. Litinsky filed her complaint and order to show cause today in the Southern District of New York. The docket number is 07-cv-11475 and the case is assigned to Judge Richard J. Sullivan. The Temporary Restraining Order was not granted, but Judge Sullivan set the hearing for the preliminary injunction for Wednesday December 26, 2007 at 11:00 A.M.

Please let me know as soon as possible if you are able to attend this hearing.

I faxed and overnighted to your office a set of all papers that were filed today, and I will be following up with an email copy of the papers as soon as I can get them out.

Once again, Happy Holidays!

Regards,

Josh

Joshua W. Ruthizer | PROSKAUER ROSE LLP
1585 Broadway | New York, NY 10036-8299
V: 212.969.3869 | F: 212.969.2900
jruthizer@proskauer.com | www.proskauer.com

Ruthizer, Joshua W.

From: Ruthizer, Joshua W.
Sent: Friday, December 21, 2007 8:03 PM
To: todd.marcus@dlapiper.com
Cc: Kovacs, Gary
Subject: Litinsky v. Diamate et al.

Attachments: Marcus Letter 12-21-07.pdf; Ruthizer Declaration.pdf; Complaint Ex. A.pdf; Complaint Ex. B.pdf; Complaint Ex. C.pdf; Complaint Ex. D.pdf; Complaint Ex. E.pdf; Complaint Ex. F.pdf; Complaint Ex. G.pdf; Complaint Ex. H.pdf; Complaint Ex. I.pdf; Complaint.pdf; COS.pdf; Gem Summons.pdf; Judge's Rules and ECF Documents.PDF; Kovacs Declaration.pdf; Litinsky Decl. Ex. 1.pdf; Litinsky Decl. Ex. 2.pdf; Litinsky Decl. Ex. 3.pdf; Litinsky Decl. Ex. 4.pdf; Litinsky Decl. Ex. 5.pdf; Litinsky Decl. Ex. 6.pdf; Litinsky Decl. Ex. 7.pdf; Litinsky Declaration.pdf; Memo of Law.pdf; Ordern to Show Cause.pdf; Ruthizer Decl. Ex. 1.pdf; Ruthizer Decl. Ex. 2.pdf

Please see the attached letter and documents.



Marcus Letter
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 1585 Broadway | New York, NY 10036-8299
 V: 212.969.3869 | F: 212.969.2900
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Ruthizer, Joshua W.

From: Marcus, Todd B. [Todd.Marcus@dlapiper.com]
Sent: Friday, December 21, 2007 8:04 PM
To: Ruthizer, Joshua W.
Cc: Kovacs, Gary
Subject: RE: Litinsky v. Diamante, Zakaria and GIA

Thanks, Josh. I am reviewing the papers and will discuss the matter with my client (including whether it desires an appearance on December 26). I will get back to you on Monday and let you know if we will be attending the hearing.

From: Ruthizer, Joshua W. [mailto:JRuthizer@proskauer.com]
Sent: Friday, December 21, 2007 7:58 PM
To: Marcus, Todd B.
Cc: Kovacs, Gary
Subject: Litinsky v. Diamante, Zakaria and GIA

Todd,

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I faxed and overnighted to your office a set of all papers that were filed today, and I will be following up with an email copy of the papers as soon as I can get them out.

Once again, Happy Holidays!

Regards,

Josh

Joshua W. Ruthizer | PROSKAUER ROSE LLP
1585 Broadway | New York, NY 10036-8299
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12/22/2007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURA LITINSKY,

Plaintiff,

- against -

DIAMANTE THE DIAMOND MANUFACTURERS,
INC., RAFAEL ZAKARIA, AND THE GEMOLOGICAL
INSTITUTE OF AMERICA,

Defendants.

Case No. 07-cv-11475(RJS)

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA)

)ss.:

COUNTY OF)

William Benson (process server), being duly sworn deposes and says that:

Deponent is not a party to this action, and is over 18 years of age and is a resident of the State of California.

On Monday, December 24, 2007, at approximately 11:05 A.m. at550 S. Hill St, LA, CA 90013 (address of service), deponent served theWithin Cover letter, Order to Show Cause, Summons in a Civil Case, Complaint with exhibits, Declaration of Litinsky with exhibits, Declaration of Ruthier with exhibits, Declaration of Kovacs and Memorandum of Law upon **Diamante The Diamond Manufacturers, Inc.**, by delivering to and leaving with (Person served) Rudy Saez (Title)_____, a true and correct copy of said documents. At the time of said service, (Person served) Rudy Saez stated that (s)he was duly authorized to accept service of legal process for **Diamante The Diamond Manufacturers, Inc.**(Person served) Rudy Saez is described as a male (fe)male, approximately 45 years of age, 140 lbs., 5'6" tall, with black hair and

(other features) _____

(PROCESS SERVER'S SIGNATURE)

William Benson
(PRINT NAME)Sworn to before me this
____ day of December, 2007_____
Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURA LITINSKY,

Plaintiff,

- against -

DIAMANTE THE DIAMOND MANUFACTURERS,
INC.; RAFAEL ZAKARIA, AND THE GEMOLOGICAL
INSTITUTE OF AMERICA,

Defendants.

STATE OF CALIFORNIA

COUNTY OF

Case No. 07-cv-11475(RJS)

AFFIDAVIT OF SERVICEWilliam Benson (process server), being duly sworn deposes and says that:

Deponent is not a party to this action, and is over 18 years of age and is a resident of the State of California.

On Monday, December 24, 2007, at approximately 12:56 p. m. at
3700 Wilshire Bl, L.A, CA 90010 (address of service), deponent served the
 within Cover letter, Order to Show Cause, Summons in a Civil Case, Complaint with exhibits,
 Declaration of Litinsky with exhibits, Declaration of Ruthier with exhibits, Declaration of Kovacs
 and Memorandum of Law upon Yeroushalmi & Associates, attorneys for Diamante The
 Diamond Manufacturers, Inc. and Rafael Zakaria, by delivering to and leaving with (Person
 served) Mike Jef (title) _____, a true and
 correct copy of said documents. At the time of said service, (Person served)

Mike Jef stated that (s)he was duly authorized to accept service
 of legal process for Diamante The Diamond Manufacturers, Inc. and Rafael Zakaria.

(Person served) Mike Jef is described as a male (fe) male,
 approximately 45 years of age, 200 lbs., 5'9" tall, with grey hair and

(other descriptors) _____

William Benson
 (PROCESS SERVER'S SIGNATURE)
William Benson
 (PRINT NAME)

Sworn to before me this
 _____ day of December, 2007

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURA LITINSKY,

Plaintiff,

- against -

DIAMANTE THE DIAMOND MANUFACTURERS,
INC., RAFAEL ZAKARIA, AND THE GEMOLOGICAL
INSTITUTE OF AMERICA,

Defendants.

Case No. 07-cv-11475(RJS)

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA)

COUNTY OF)

ss.:
)

William Benson

(process server), being duly sworn deposes and says that:

Deponent is not a party to this action, and is over 18 years of age and is a resident of the State of California.

On Monday, December 24, 2007, at approximately 11:05 a.m. at

550 S. Hill St LA, CA 90013 (address of service), deponent served the

within Cover letter, Order to Show Cause, Summons in a Civil Case, Complaint with exhibits, Declaration of Litinsky with exhibits, Declaration of Ruthier with exhibits, Declaration of Kovacs and Memorandum of Law upon Rafael Zakaria, President of Diamante The Diamond Manufacturers, Inc., by delivering to and leaving with (person served)

Rudy Saez (Title) _____, a true and correct copy of said documents. At the time of said service, (Person served)

Rudy Saez stated that (s)he was duly authorized to accept service of legal process for Diamante The Diamond Manufacturers, Inc.

(Person served) Rudy Saez is described as a _____ (fe)male, approximately 45 years of age, 145 lbs., 5'10" tall, with black hair and

(other features) _____

William Benson
(PROCESS SERVER'S SIGNATURE)
William Benson
(PRINT NAME)

Sworn to before me this
_____ day of December, 2007

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAURA LITINSKY,

Plaintiff,
- against -

DIAMANTE THE DIAMOND MANUFACTURERS,
INC., RAFAEL ZAKARIA, AND THE
GEMOLOGICAL INSTITUTE OF AMERICA,
Defendants.

X Case No. 07-cv-11475(RJS)

AFFIDAVIT OF SERVICE


STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

Andrew Bartley, being duly sworn deposes and says that: Deponent is not a party to this action, and is over 18 years of age and is a resident of the State of New York.

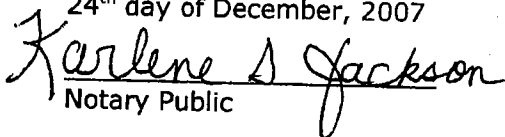
On December 24, 2007, Deponent served the within Cover letter, Order to Show Cause, Summons in a Civil Case, Complaint with exhibits, Declaration of Litinsky with exhibits, Declaration of Ruthizer with exhibits, Declaration of Kovacs and Memorandum of Law, Individual Practice of Richard J. Sullivan and ECF Instructions upon **Rafael Zakaria, President of Diamante The Diamond Manufacturers, Inc.**, by depositing a true and correct copy of said documents thereof enclosed in a securely sealed, fully post paid, first class mail envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York, addressed to Rafael Zakaria at his place of business as follows:

Rafael Zakaria
C/o Diamante The Diamond Manufacturers, Inc.,
550 S. Hill Street,
LA, CA 90013

Deponent further states that the envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerns an action against the addressee.


Andrew Bartley
Lic. # 0848223

Sworn to before me this
24th day of December, 2007


Notary Public

Karlene S. Jackson, Notary Public
State of New York, #01JA5083169
Qual. in Queens Cty; New York City
Commission Expires November 17, 2009